

The Argumentative Dimension to the EU-Africa EPAs

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Abstract

Not only is the participation of developing countries in international trade negotiations growing, so is their influence over the global trade agenda. This article highlights the increasing activism and impact of African states through a detailed study of the current Economic Partnership Agreement (EPAs) negotiations with the European Union (EU). In examining African resistance to EPAs, the article develops a constructivist approach to North-South trade negotiations that pays close attention to the role of development discourses. We argue that the growing willingness of African states to challenge the EU to deliver on its development promises during the decade-long EPA process was crucial to informing their sustained opposition to the EU's goal of completing a comprehensive set of sub-regional economic agreements. We document African resistance to EU trade diplomacy in the EPAs, exploring how these otherwise weak countries were able to pursue normative-based negotiation strategies by recourse to the EU's promise of a 'development partnership.'

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Keywords

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During the last decade, African states have begun to develop a more active and confident approach to multilateral and regional economic negotiations in which they are involved. This is particularly clear in their attitude towards, and their preventative negotiating behavior in, the Economic Partnership Agreement (EPAs) talks with the European Union (EU).¹ While African negotiators still lack the highly resourced deliberative capacities of their European counterparts, they have successfully navigated the negotiations and enhanced their influence in EU-African regional economic governance processes. The capacity of African states was boosted by an extensive NGO campaign, which shaped the discursive practices within the negotiations (Del Felice 2012). While Africa's more active engagement in trade rule-making and regional economic policymaking has yet to produce significant policy shifts in Brussels, their increasing willingness and ability to challenge existing European ideas about what policies can best produce sustainable development within Africa have tended to explain bargaining outcomes almost exclusively in terms of asymmetries of material power.

Mainstream positivist approaches to trade negotiations between so-called strong and weak actors have tended to focus on the asymmetries of material power to explain bargaining outcomes almost exclusively in terms of power imbalances. When they do consider the agency of the weak, positivists tend to see bargaining processes in terms of rational actions around calculations of economic interests, where weak actors influence outcomes by reducing power asymmetries through collective action strategies based on shared economic interests (Drahos 2003; Narlikar 2004; Steinberg 2002; Zartman 1971). Developing countries, for example, are seen to formulate a series of strategic coalitions in the World Trade Organization (WTO) to enhance their bargaining power vis-à-vis major powers such as the United States (Narlikar 2003). Yet as Lee (2012) has demonstrated, this perspective overlooks the way in which the need to justify and legitimize behavior can often delimit the bargaining power of states in multilateral negotiations. And, while a focus on rational calculations may provide insights into trade bargaining between weak actors in multilateral settings such as the WTO (and even this can be contested, see Lee 2007), such an approach fails to fully account for the effective agency of weak actors where collective action opportunities are absent or limited, such as bilateral trade negotiations. In such circumstances, we propose that a constructivist analysis of bargaining – one that focuses on how weak actors make use of rhetorical action to mitigate material power asymmetries

¹ Throughout this article, EU is used to represent the European Union and the organization, pre-Maastricht Treaty, officially referred to as the European Community.

in negotiations – can better capture African agency in the negotiation of EPAs in which *normative discourses on development* (rather than purely functional discussions of trade gains) are prevalent.

Building on existing discursive approaches to bargaining (Risse 2000; Schimmelfennig 2001; Schimmelfennig 2009; Sharman 2007), our analysis brings African agency and its interaction with the EU to the forefront of an examination of EPA negotiations. We provide new empirical insights to explain effective African resistance to attempts by the EU to force agreement during a decade of bilateral negotiations with the various African sub-regions. Using EU and African, Caribbean and Pacific (ACP) official documentation, as well as qualitative data from interviews with trade negotiators and public speeches by leading officials, we highlight and explain the ways and means of African activism in the negotiations of EPAs. It is a case study of trade negotiations which seeks to explain how a discursive process around African development, as well as the norms of legitimate bargaining behavior, provides opportunities for materially weak actors (African states) to challenge and resist materially strong actors (the EU). Our analysis of the argumentative dimension to the EPAs highlights how African countries communicate and imitate the EU's discourse of 'development partnerships' and statements that EPAs must serve above all as 'tools for development' as a means of challenging the proposed new trade agreements.

Constructivist approaches have already documented how prevailing discourses are an important tool for dominant states to achieve policy goals in international politics (see Checkel 2004 for an excellent review of this literature). In this study of the role of discourse in the EPAs, we highlight the role of the prevailing development discourse in the negotiations – a discourse initiated by Europeans – as, to borrow James C. Scott's phrase (1985), a "weapon of the weak." Our purpose is to explore how subordinate African actors have made normative use of the European discourse of 'development partnership' embedded in the EPAs to hold the EU accountable for their negotiating behavior, and in so doing influence outcomes (in this case no agreement on comprehensive EPAs) in ways that would not be possible if the negotiations were determined by material power alone.

We develop our argument using the 'everyday international political economy' approach adopted by Sharman (2007) in a study of small tax haven state resistance to European attempts to regulate their activity. In this seminal study, Sharman (2007: 48) highlights how small states such as Liechtenstein used the prevailing discourse of liberalization as a 'mimetic challenge' to the EU.² Mimetic challenge is a form of rhetorical action, which involves mimicking the discourses and norms of your main protagonist in a negotiation. In this context, Sharman uses it to refer specifically to Liechtenstein's imitation of the EU's language of open markets and

² For more analysis of the concept of "mimetic challenge," see also Hobson and Seabrooke (2007) and Widmaier (2009).

deregulation, which prevails in other negotiations such as the WTO, to highlight the contradiction in European attempts to introduce regulation in the banking and taxation sectors to control small state tax havens. In the EPAs, we see the African negotiators mimicking the EU's references to a 'development partnership' in order to challenge the EU and resist European attempts to push through agreement.

African negotiators were able to link EU discourses of development and its negotiating strategies in the EPAs to the EU's self-constructed identity as 'normative power Europe,' that is as a lead promoter of core principles such as sustainable development, equality and good governance on the global stage (Manners 2008). African negotiators had ample opportunities to mimic 'normative power Europe' in the EPAs, not only in terms of the content of the EU's proposals, but also the *ways* in which normative Europe was negotiating.

We argue that while African mimetic challenges in the EPA negotiations have not led to modifications of European strategic behavior in the negotiations in the way that Schimmelfennig (2001 and 2009) identifies in the EU enlargement negotiations (indeed European negotiating behavior, as we highlight below, becomes more coercive following African mimicking of the development discourse), it has led to the prevalence of a norm-based argumentative dimension to the EPAs. The arguments, as we discuss below, are focused on the (lack of) development content of the proposed agreements as well as the (perceived to be hostile) bargaining strategies of the EU negotiators. Similar norm-based arguments have been used by African countries in the WTO in the cotton negotiations (Lee 2012) and the intellectual property negotiations (Morin & Gold 2010). Discursive strategies would thus appear to be a particularly effective approach for materially weak actors when they confront the materially strong.

The article is structured in three parts. We begin by briefly highlighting the historical legacies of the current negotiations in order to contextualize the concept of 'development partnership' as well as historically situate the current negotiating power of sub-regional African groups. We then discuss the EU's discourse of 'development partnership.' This is a particular way of conceptualizing development relations that has resonance in the language of 'association' found in earlier EU-African agreements. In the third part we analyze the *how* and *why* of Africa's discursive entrapment of the Europeans, highlighting the opportunities this has provided for a preventative approach to concluding full EPAs.

Since 2002, the EU has been involved in a series of protracted negotiations over EPAs with the African, Caribbean and Pacific (ACP) group of countries. EPAs are one of the key pillars of the Cotonou Agreement (signed in 2000), which signified a major revision of the structure of the relationship between the two parties, replacing the bilateral arrangement with a set of regional relationships between the EU and seven sub-regions of the ACP grouping.³ This new negotiating structure has

³ Initially the negotiations were conducted with six regions (West Africa, Central Africa, Eastern and Southern Africa, Southern African Development Community, Caribbean and Pacific). This became

proven difficult to manage. While a full EPA agreement has been reached with the Caribbean region, only *interim agreements* (iEPAs) on trade in goods have been reached with the Pacific region and African sub-regions or, in some cases, only individual African countries.

The proposed EPAs would also seek to restructure the trade relationship between the EU and the ACP countries by replacing the system of preferences with a system of reciprocity and the creation of Free Trade Agreements (FTAs) between the EU and the seven regions. A reciprocal trade relationship would provide open access to each other's markets and thus promote the growth of free trade between European and ACP countries more effectively. In so doing, it promises – according to European policymakers – a more effective means of achieving development goals than a system based on preferences, and it would also be compatible with WTO rules (Hinkle & Schiff 2004: 1322). The proposed EPAs would, however, also create a number of development problems for many African states including a loss of tariff revenue – which in some cases accounts for almost ten percent of government revenues (Hinkle & Schiff 2004: 1327). Whether EPAs will promote development or better promote European economic growth at the expense of African development is the subject of much debate (Meyn 2004; Goodison 2007; McCarthy 2008; Bilal & Stevens 2009; Hurt 2012). The fact that comprehensive EPAs have not been completed with any of the African sub-regions suggests that these scholarly concerns are shared by many African negotiators.

We will turn to the details of the negotiations shortly. Before we do, however, it is worth reflecting briefly on the historical context of EU-ACP relations to demonstrate the legacies of this relationship, *vis-a-vis* the negotiating power of African states, as it is of specific relevance to the arguments made in the analysis that follows.

EPA Negotiations in Historical Context

One aspect of the Treaty of Rome which is often overlooked is the association agreement (in essence a free trade area) between the EU's founding member states and their colonies. Unsurprisingly, given the historical circumstances, the content of this initial relationship was not the result of intense negotiations between the two parties. The relationship was accorded a formal institutional arrangement when the first conventions were agreed to by the Association of African States and Madagascar (AASM) and the EU. As Farrell (2005: 267) suggests, the main driver behind these developments was a desire by European countries “to retain the economic links, the access to natural resources and raw materials and other strategic economic interests they had enjoyed under colonialism.”

seven regions when members of the East African Community decided in November 2007 to conduct their own EPA negotiations.

Things changed quite significantly by the mid-1970s as the expanded group of newly independent associate countries had established the ACP group of states and entered into negotiations of the first Lomé Convention. Inspired by the calls for a New International Economic Order within the UN General Assembly, and the idea of commodity power, the ACP states negotiated a number of concessions from Europe. As Clapham (1996: 99) suggests, this new global context meant that ACP states were able to negotiate from “something approaching a position of equality.” Moreover, the ACP group of states, despite their heterogeneity, was able to demonstrate a significant degree of unity and strength as a negotiating group (Holland 2002: 33). The most significant changes in Lomé I were the inclusion of non-reciprocal trade preferences and a number of commodity protocols (bananas, beef, rum and sugar) whereby the EU gave a guaranteed price for a set quota of imports from ACP states.

Notwithstanding the achievements of Lomé I, the EU-ACP relationship soon became reflective of the power asymmetry between the two parties. The concessions that were achieved by ACP states in Lomé I have since been progressively removed. During the 1980s, the broader neoliberal turn in development policy further influenced EU-ACP relations. This saw a shift away from the idea that developing countries should be protected from the global market to a firm belief in liberalization (Hurt 2003: 161). From the mid-1990s onwards, the EU made it clear that it favored a return to reciprocity in trade relations with the ACP states. This was justified by the EU for two main reasons. First, and the most important reason according to the European Commission, was the need for EU-ACP trade relations to satisfy WTO rules. Second, it was argued that Lomé trade preferences had failed to promote development in most parts of the ACP. In particular the Commission highlighted how the ACP’s share of exports to the EU had fallen from 6.7 percent in 1976 to 2.8 percent in 1994 (European Commission 1996: 20). It should be noted that the relative value of these trade preferences has declined significantly since Lomé I because the EU has committed to wider trade liberalization in multilateral agreements, and in recent years has concluded a number of bilateral agreements (Hurt 2003: 165).

In sum, EPAs were an idea initially proposed by the European Commission during the 1990s. During the Cotonou Agreement negotiations there was little evidence of ACP states shaping the agenda. In 1997, at its first Summit of Heads of State and Government, the ACP group adopted the Libreville Declaration, which called for “the EU to maintain non-reciprocal trade preferences and market access” (ACP Heads of State and Government 1997: 7). Despite this the EU was able to include the plan for reciprocal EPA negotiations in the final Cotonou Agreement. As a result, the EU “saw its general approach win through” in all major aspects of the Cotonou negotiations (Bengtsson & Elgström 2012: 102). It is these historical foundations that have set the parameters for what African states could hope to achieve in the current EPA negotiations.

The EU's Development Discourse and EPAs

Institutionally, EPA negotiations are delineated as 'commercial' trade talks and not development policy, and are therefore led by Directorate General (DG) Trade instead of DG Development (recently re-named DG Development and Cooperation – EuropeAid). Although DG Trade tends to be more closely associated with the EU's economic interests, the image that the EU has sought to promote in the EPA negotiations is allied to the idea of 'normative power' Europe. This concept has become popular in analyses of the EU's external relations. The suggestion is that the EU is founded on five core norms (peace, liberty, democracy, the rule of law, and respect for human rights), which it then seeks to promote in its external relations (Manners 2002: 242). Such an approach does tend to uncritically accept some of the more aspirational rhetoric of EU policymakers and we may want to dispute such claims (see Hurt 2012). Nevertheless, what it does highlight is the ideational dimension, which is significant in understanding the strategies that African states have adopted during the EPA negotiations.

According to Bengtsson and Elgström (2012: 103), the EU has portrayed itself during the EPA negotiations as "a partner for development [and] ... a promoter of norms." This concept of 'partnership', rather than 'conditionality', became central to World Bank discourse in the late 1990s when it introduced its Comprehensive Development Framework (Pender 2001). In fact, in EU-ACP relations the use of such rhetoric can be traced back even further. Official EU discourse has employed the term 'partnership' since Lomé I instead of the term 'association' (Lister 2007: 77).

At the core of the EU's portrayal of EPAs is a belief in the benefits of trade liberalization for development. This is, of course, a central assumption of neoliberal development discourse. Louis Michel (2008: 16), then European Commissioner for Development and Humanitarian Aid, argued in 2008 that "trade liberalization is a means of attaining development objectives ... in this way, EPAs will do much to facilitate trade between the EU and the ACP countries in goods and services, in terms of both imports and exports." Similarly, an official in DG Trade concluded that "the question is do we want to try and create more than tariff preferences for us and ACP countries ... I think this is the added-value of the EPA".⁴

Nevertheless, the Commission had initially envisaged that EPAs would exclusively address the trade pillar of the Cotonou Agreement, while the development dimension of EU-ACP relations would be dealt with separately through the European Development Fund (EDF). Consequently, the European Commission's negotiating mandate only covered trade and trade-related issues. At the same time, EPAs were promoted as a tool for development that "must be consistent with the objectives and principles of development policy" (European

⁴ Personal interview with an official at DG Trade, 29 April 2009, Brussels.

Commission 2002: Art. 4.2). The dichotomy between pro-development political rhetoric and the narrow definition of development pursued by DG Trade negotiators, who focused on trade-related gains rather than on a broader development dimension, raised strong criticism not only from ACP governments but also from civil society actors and even EU member states (Lorenz 2011). The consistent claims by the European Commission that EPAs were primarily instruments for development made it increasingly difficult for them to avoid the accusation that they were not implementing such rhetoric in practice.

Until well into the second phase of the negotiations, the Commission maintained its position that no additional finance would be provided for EPA support beyond the EDF. Towards the end of 2006 however, after facing growing protest by ACP governments and particularly international NGOs, complementary bilateral funds were provided under the so-called *Aid for Trade* initiative to support trade-related capacity and infrastructure building. This also led the Commission to concede that development issues would be included in the final agreements. And indeed, by the end of 2007, all iEPAs (except for the EAC) contained comprehensive, albeit non-binding, provisions for development cooperation.

What marks the EU's approach as rather unique is the associated belief in the developmental benefits of regional integration. Since the mid-1990s, regional integration has become a cornerstone of the EU's external relations. Seeing itself as a "natural supporter of regional initiatives" (European Commission 1995), the promotion of outward-oriented regional integration in the relations with the ACP countries was emphasized in the Commission's Green Paper in 1996 that, along with other documents, had already introduced the idea of a future trade agreement to be negotiated based on regional ACP groups – the so-called *Regional Economic Partnership Agreements* (European Commission 1996: 43–45). The Green Paper argued that "for the ACP countries regional economic integration is an indispensable step towards their successful integration into the world economy" (European Commission 1996: 54), not only in their trade with external partners, but also to trigger domestic surplus production and support trade between each other, to create bigger and more attractive local markets for investment.

Ten years later, in an early speech during his time as European Commissioner for Trade, Peter Mandelson (2005) reiterated such a position, suggesting that "EPAs are not typical, hard-nosed free trade agreements. I see them as tools for development and the promotion of regional economic integration. They must serve as stepping stones for the successful integration of ACP countries in the global economy." The Commission's most recent Green Paper on development policy continues to demonstrate how the relationship between trade, development and regionalism is seen as forming a virtuous circle. The ethos of EPAs is encapsulated in the claim that "development usually involves the gradual liberalization of trade in goods and services in a favourable business environment so as to facilitate integration into the world economy and regional integration" (European Commission 2010b: 15).

What makes EPA negotiations stand out from the EU's other bilateral trade negotiations is that the Commission has repeatedly argued that they are developmental and not determined by Europe's economic interests. In the words of Mandelson (2004), "what we want in exchange is not commercial – I have no European business leaders knocking at my door demanding greater access to ACP markets – but a commitment to improving the business climate in your countries, for your benefit." This point was also emphasized in the European Commission's trade strategy document, *Global Europe*, published in 2006. ACP states are barely accorded any discussion in this document and a clear distinction is made with the EU's priority countries/regions, which are identified on the basis of market potential (European Commission 2006: 9).⁵

It is this strong rhetorical focus by the European Commission on development and regional integration that has been at the heart of their approach to the EPA negotiations. We argue this is what provides the mimetic tool for the materially weaker African states to gain traction in these trade talks. The EU-led development discourse has created space for ACP states to pursue a strategy highlighting the disjuncture between the EU's rhetoric and the highly coercive negotiating tactics that have been adopted during the negotiating process. As one recent study concluded, "the perceived inconsistency between partnership rhetoric and actual behaviour in terms of pressure and bullying tends to weaken the legitimacy of the EU" (Bengtsson & Elgström 2012: 105). The following section considers how African states have adopted an approach guided by mimetic challenge in order to pursue a resistance strategy to the completion of comprehensive EPAs.

African Resistance to EPAs

Despite the EU's commitment to conclude the negotiations, the talks continue to drag on. African states have demonstrated significant resistance in the face of the pressure applied by the European Commission to conclude full EPAs. As indicated in our earlier discussion of the historical context of the EPA negotiations, this constitutes an unprecedented development in Africa's relations with the EU. The EU seems incapable of wielding its significantly greater material power against African states to any good effect. This section explores how African states have gone about constructing a 'mimetic challenge' within the negotiations in order to resist the pressures to sign full EPAs.

The EU's desire to conclude comprehensive 'WTO-plus' EPA agreements with all the ACP sub-regions by the initial deadline of 31 December 2007 was not fulfilled. All that has so far been agreed to are iEPAs, signed mostly by non-LDCs, which only cover the trade in goods.⁶ Some countries, most notably

⁵ The Association of Southeast Asian Nations (ASEAN), South Korea, the Southern Common Market (Mercosur), India, Russia and China were identified as the EU's main targets for future FTAs.

⁶ LDCs are covered by the so-called 'Everything But Arms' initiative (see discussion below).

Nigeria, have since reverted to the Generalized System of Preferences (GSP). These iEPAs represent the absolute legal minimum to satisfy WTO rules. By the end of 2007, the status of the iEPAs was, however, not obvious, and the degree to which they could be revised in a future negotiation process remained unclear. The European Commission sees them as ‘stepping stone’ agreements to satisfy the expiry of the WTO waiver for Cotonou preferences at the end of 2007. Since 2007 however, “African negotiators... have been able to block the negotiations over full EPAs and have thus had implications for European external trade” (Sicurelli 2010: 108).

African leaders have emphatically voiced their reservations about the market access offered to the EU market in the EPA negotiations, both in negotiation meetings with their EU counterparts, as well as in multilateral events such as the Africa-EU Summit held in Lisbon in December 2007. On the one hand, they have argued that EPAs fail to address the inherent protectionism in the EU’s Common Agricultural Policy (CAP) (Sicurelli 2010: 89). On the other hand, they have highlighted how the hardline conduct adopted by the EU negotiators did not live up to the idea of an economic ‘partnership’. Senegalese President Abdoulaye Wade went as far as calling for an end to the negotiations in Lisbon, announcing that he was not willing to talk about the EPAs anymore: “We’ve said we rejected them – for us, it’s finished... when we meet again, we’ll discuss things, the EU will present their EPAs, and we will present something else” (Deutsche Welle 2007).

His reaction was particularly triggered by the EU being quite hostile in its approach to the EPA negotiations. Whilst the three most controversial ‘Singapore Issues’ (competition policy, transparency in government procurement and national treatment for foreign investors) have remained off the agenda at the WTO since the collapse of the Cancún Ministerial in 2003, the EU has continued to pursue them in its EPA negotiations.⁷ In this sense, African leaders have accused the EU of trying to impose an agenda that is beyond the requirements necessary for WTO-compatibility. From their point of view the “inclusion of services, investment and other trade-related issues in the EPA negotiations reflected a fundamental shift in EU trade policy built on a more aggressive approach” (Heron & Siles-Brügge 2012: 255). Moreover, the persistence of the European negotiators to include the ‘Most-Favored Nation’ clause in EPAs constituted – and still constitutes – the most contentious issue for many African negotiators. They fear that this would severely undermine the autonomy of their policymaking in the future as it would require signatories to offer the EU matching trade preferences to those that might be agreed to in future bilateral FTAs with other major trading partners.

Although the EU has remained fully committed to concluding full EPAs, negotiations have not made significant progress despite new deadlines having

⁷ At the insistence of the developing countries. See Lee (2007).

being set ambitiously on an annual basis for the last five years. With the appointment of Baroness Ashton as the new EU Trade Commissioner in October 2008, hopes were high on both sides that negotiations would gain momentum. Participants agree that although the Commission's negotiating mandate did not change, the new Commissioner did introduce a less aggressive negotiating style and tone.⁸ Nevertheless, this shift failed to speed up the negotiation process and no agreement could be reached in any of the EPA groupings on the outstanding contentious issues. By June 2010, the Commission officially admitted "the process towards signing and applying iEPAs has effectively taken much longer than anticipated" (European Commission 2010a: 2). On the one hand, 'EPA fatigue' has seized all parties to the negotiations and even the EU's open threats to withdraw market access could not be used as leverage (Lorenz 2012). On the other, trade under the iEPAs continues apparently as 'business as usual' and therefore there remains little incentive for African negotiators to return to the negotiating table.

The two proposals outlined by the European Commission in 2011 constituted yet another approach to 'encourage' ACP states to make progress in EPA negotiations. Firstly, they released details of plans to significantly reduce the number of countries who will qualify for GSP status when the current scheme expires at the end of 2013 (European Commission 2011a). This was followed by an announcement that preferential trade access will be removed for those ACP states who fail to demonstrate they are taking sufficient steps to ratify their EPAs by the beginning of 2014 (European Commission 2011b). African negotiators have been clear in their rejection of these most recent attempts by the European Commission to impose a new deadline. At a meeting of the heads of the different regional organizations within the ACP and the main negotiators of EPAs, it was agreed that "the spirit of the partnership should be to ensure that content and not timing determines the conclusion of the EPAs" (ACP Secretariat 2011: 7). Following such criticisms, the European Parliament voted in September 2012 to extend by two years – until the beginning of 2016 – the Commission's proposal to remove market access for those states that have not agreed to an EPA.⁹

Explaining African Resistance in the EPA Negotiations

Given the economic dependence of African states upon the EU and their relative weak negotiating capacity, their ability to resist completion of full EPAs is remarkable. During the early phase of the negotiations ACP negotiators saw DG Trade as a "tough, confrontational, 'mercantilist' negotiator that... paid scant

⁸) Personal interviews with officials at DG Trade, 26 and 29 June 2009, Brussels; personal interview with SADC EPA Unit staff, 20 January 2009, Gaborone; personal interviews with officials of Ministry of Trade and Industry Botswana, 3 February 2009, Gaborone.

⁹) At the time of writing, this decision by the European Parliament still required ratification by the European Council. In December 2012, the Council reaffirmed its commitment to a 1 January 2014 deadline.

attention to development concerns” (Elgström 2009: 25). This approach contrasted quite sharply with the EU’s promise that EPAs would be a ‘tool of development’ and a ‘partnership for development’, which had contributed to a particular normative tone and set of promises that African negotiators have come back to repeatedly throughout the talks.

During the early phase of the negotiations the ACP group as a whole was concerned with adding increased development finance to the scope of the negotiations. This was due to fears over the potential adjustment costs of trade liberalization as a result of lost tariff revenues and the need for substantial investment in infrastructure. They argued in particular – albeit unsuccessfully as it turned out – for a separate adjustment fund in addition to finances provided through the EDF (Sicurelli 2010: 106). During this period, however, the European Commission maintained that specific provisions on development were not part of the EPA negotiations and that these remained within DG Development’s remit. What concerned DG Trade most was securing agreements that would be WTO-compatible, which led to an exclusive focus on trade liberalization on the side of the European negotiators. Their focus, however, underestimated the difficulty of negotiating when there exist several parallel trade regimes, most importantly the so-called ‘Everything but Arms’ (EBA) initiative.

In February 2001 the EU launched this initiative to allow for a continuation of non-reciprocal trade access for LDCs to the EU market. The EBA initiative, because of its exclusive focus on LDCs, does not require a waiver within the WTO. On the surface it seems like a beneficial scheme for LDCs and an example that demonstrates the EU’s commitment to development. In reality, however, its economic impact is thought to be marginal given that most exports already enter the EU duty-free under Cotonou preferences (Flint 2008: 73). Moreover, the politics of the EBA scheme can be related to the wider trade interests of the EU. In terms of EPAs, what it has done is create two tiers within the sub-regions that further complicates the negotiating process. On the one hand, it means that LDCs do not have much incentive to join regional EPAs given that they will already have duty-free access to the EU. Moreover, by signing a regional EPA, they would be liable for a loss in tariff revenues as any regional grouping has to reduce duties on imports from the EU (Flint 2008: 26). On the other hand, governments questioned whether relying on the EBA initiative would constitute a viable alternative to an EPA due to its non-binding character, therefore not concluding an EPA could thus equally risk their preferential market access.¹⁰

African and other ACP states have expressed skepticism over the decoupling of trade and development at such an early stage of the negotiations, and have argued that substantial institutional investment would be needed to harness the potential

¹⁰ Personal interview with an official of the Ministry of Industry and Commerce of Mozambique, 11 February 2009, Maputo.

benefits of liberalization (Bengtsson & Elgström 2012: 104). While most accounts of the EPA negotiations merely refer to the negotiating principles established by the European Commission, the ACP had also published its own quite detailed guidelines for the EPA negotiations in 2002. These were broadly in line with those of the Commission, but in addition included ACP unity and solidarity, preservation and improvement of the Lomé Acquis, sustainability, coherence and consistency by the ACP states, and “additionality [sic!] of resources and support for adjustment” as guiding principles (ACP Secretariat 2002: 8). Additionally, apart from outlining the ACP’s position on trade and trade-related issues, this document provides a section on development cooperation issues and legal issues as well as the ACP negotiating structure and the time line from June 2002 until December 2007. In retrospect, paragraph 43 of the guidelines, which suggests the timeline “may have to be adapted in the light of future developments,” reads more like a premonition than a proposition.

In this first phase, however, while the ACP side did voice its concerns, achievements were nevertheless limited even though their concerns were supported by an extensive NGO campaign in Europe and Africa.¹¹ The central message of this campaign has been that EPAs are designed in line with the EU’s commercial interests and not Africa’s development needs. Some argue that this campaign did not have a significant direct impact on policy outcomes or the negotiating position of the European Commission itself, despite the existence of an official consultation mechanism allowing for dialogue with civil society groups (Dür & De Bièvre 2007: 88–93).

In late 2006 and 2007, however, this campaign by NGOs did gain momentum and ACP negotiators often echoed their arguments. Research conducted by Del Felice (2012: 12) suggests that the extent of the campaign, and the level of criticism, was not expected by most European officials. Even though the European side did not openly admit to being under pressure as a result, it did feel that it had to engage with such criticism and improve its efforts to communicate its position on the developmental benefits of EPAs (Del Felice 2012: 15). For example, the European delegation to South Africa addressed the argument made by NGOs that the EU was imposing the deadline on the ACP countries in one of the EU’s few defensive publications as a “myth of the EPA negotiations” (European Delegation to South Africa 2007). Moreover, research by Trommer (2011: 121) suggests that, in the case of West Africa, by campaigning for EPAs to be more focused on the development needs of the region, transnational NGO networks have been able to influence “both the general public and decision-makers

¹¹) Development NGOs based across Europe and ACP countries began a ‘Stop EPA’ campaign in December 2004. This campaigning has continued with groups such as the Trade Justice Movement (an umbrella organization that includes leading NGOs based in the UK such as ActionAid, CAFOD, Christian Aid, Friends of the Earth, the TUC, War on Want and the World Development Movement) continuing to be active.

in West Africa.” In the case of the SADC EPA group, negotiators and governments rather sang the song of the campaign to strengthen their negotiating position, whilst at the same time criticizing the “packed and canned messages” of the NGOs.¹² The discursive impact of the NGO campaign contributed to African states developing a more nuanced position beyond the argument of the development NGOs that polarized the debate by calling for an end to EPA negotiations. Ultimately, many African states “would want to sign up to these EPAs, not because they believe it’s the best rate or deal that they can get, but because it’s the only one . . . to keep the preferential relationship with the EU.”¹³

Their discursive approach received further “hand ammunition to ACP negotiators” (Elgström 2009: 26) from the debate that ensued within the EU in 2007, with critical voices against the negotiation approach of DG Trade coming from some member state governments (chiefly Denmark, Germany, the Netherlands, Sweden and the UK). The European Parliament’s Committee on Development also noted “the lack of a concrete development-friendly result . . . as demonstrated by the increasing concern and dissatisfaction of ACP countries” (European Parliament Committee on Development 2006: 6).

DG Trade did indeed start to make more explicit references to development finance during 2007 as the EPA negotiations became more intense. In the words of Mandelson (2007), “with the support of the €23 billion European Development Fund and EU commitments to increase Aid for Trade, EPAs will not fail through a lack of financial support.” DG Trade also committed the EU to remove tariffs and quotas on all exports (except rice and sugar) as part of the overall commitment to liberalizing ‘substantially all trade’ in the EPAs. In part, these changes can be understood to result from a process of mimetic challenge whereby “the Commission became a victim of its own spin” (Elgström 2009: 30). In the search for alternatives, proposals ranged from requesting an extension to the Cotonou preferences through the prolongation of the WTO waiver, to the granting of GSP-plus preferences to all ACP countries. The Commission refused to discuss any ‘Plan B’ until November 2007. Instead it tried to push hard for completion of the EPAs (Mandelson 2007). This led to a final negotiation phase that the ACP Secretary General Sir John Kaputin characterized as “fraught with panic, confusion and disagreement” (Trade Negotiations Insights 2008).

In the case of the SADC EPA group, the final meeting in Brussels to sign the iEPAs before the December deadline, on 23 November 2007, became so aggravated that the South African negotiators – together with their Namibian counterparts – did not return to the negotiating table after the morning session. Given that South Africa’s trade with the EU is already covered by a bilateral trade

¹² Personal interview with an official of the Department for Trade and Industry of South Africa, 4 March 2009, Pretoria.

¹³ Personal interview with Karin Ulmer (Aprodev), 28 April 2009, Brussels.

agreement, they were able to make such a decision and this in turn led to Namibia refusing to sign the agreement. More broadly, the ACP Council of Ministers indicated in December 2007 that they were highly critical of “the enormous pressure... brought to bear on the ACP states by the European Commission” (ACP Council of Ministers 2007: 1). And yet, by 31 December 2007, only 20 ACP countries had initialed an iEPA, in contrast to 43 ACP countries that had not committed to any agreement. Clearly, most of the African states that accepted iEPAs were non-LDCs that did so because they feared a loss of preferential trade access to the European market (which they remain significantly dependent on). As Flint (2008: 159) has argued, it was not that they felt genuinely committed to the eventual conclusion of full EPAs. This lack of ownership of the process adds to the sense of resentment felt by most African states towards EPAs.

Since the flurry of negotiating activity towards the end of 2007, progress has been very slow in most of the African sub-regions. In the SADC EPA group the situation has not changed since the initial deadline, despite the EU endeavoring to convince South Africa to at least sign an iEPA. In the EAC, Kenya, (the only non-LDC in what is now a common market), refuses to negotiate even a bilateral iEPA which, they argue, could harm the thriving regional integration process within the EAC (Lorenz 2012). In the Eastern and Southern African region Madagascar, Mauritius, Seychelles, and Zimbabwe did sign an iEPA and implementation officially began in May 2012. In general, however, resistance to full EPAs has continued. In particular, many of Africa’s key states remain unconvinced by the claims of extra funding made by the European Commission due to an ever-increasing skepticism over the EU’s proposed developmental strategy based on trade liberalization.

In addition to contesting the consequences of EPAs for development, African states have been critical of how the European Commission has promoted their interpretation of regional integration, which is based very closely on its own ‘EU model’ (Bengtsson & Elgström 2012: 104). It has been noted that during the negotiations the European Commission often referred back to the positive experience of Europe in terms of regional integration (Faber & Orbie 2009: 7). However, here too there is a case of the rhetoric not matching the reality. During the EPA negotiations, as Farrell (2010: 84) usefully reminds us, “the European preference is for a regionalism... which is somewhat at odds with the developmental path of European regionalism, where political cooperation and institution building preceded much of the economic liberalization.” In addition, scholars have questioned the actual contribution of regional trade agreements to welfare and development (Bhagwati 1991; Krugman 1991) and in particular the real stimulating effects of trade and investment flows, especially actual implementation effects. As Schiff and Winters (2003) argue, regional integration amongst poor countries with different sizes and levels of development could lead to income divergence and welfare loss among the partners.

In these circumstances, the option of mimetic challenge becomes ever more significant to the influence of African states in the negotiation of EPAs. The ACP Council of Ministers (2007: 2) indicated their concerns in 2007 when they stressed “the need to prioritize regional integration processes... over the free trade with the European Union.” The signing of iEPAs, and in particular the decision by the EU to allow individual countries to sign them, has exacerbated the problem of divisions within African sub-regions. Although European policymakers did belatedly acknowledge that the issue of regionalism is complicated, they continue to argue that it is not for the EU to decide what the constituency of African sub-regions should be. As Louis Michel (2008: 44) made clear in 2008, the EU’s position is “neutral as to the make-up of regional integration areas, this matter is a sovereign decision of the ACP states.”

The rhetorical claims made by the European Commission of the developmental benefits of the regional focus of EPA negotiations have also been challenged by African states. Discussing the EAC EPA negotiations, former Tanzanian President, Benjamin Mkapa, argued that “regionally [the] EPA will jeopardise the flow of trade because locally produced goods are to be liberalised... [making] EAC countries less attractive for prospective free trade agreement (FTA) partners because they will have to compete with Europe in the regional market” (Mrindoko 2011). Within the SADC region, back in 2008, South African President at the time, Thabo Mbeki, suggested that the “various provisions in the economic partnership agreements would work in an adverse manner... with regard to [the] process of regional integration” (Mail and Guardian 2008). Similarly, speaking more broadly, ACP Secretary General, Mohamed Ibn Chambas concluded that “in light of the de-industrialising effects of wholesale trade liberalization, the reluctance to include a development component to the EPAs as some of our regional communities have insisted all along remains a disappointing reality” (ACP Secretariat 2012). Clearly, the unclear treatment of the development dimension as part of the EPAs has stirred heated discussions and continues to constitute a contentious ‘rhetorical issue’ in on-going negotiations, as an observer expressed: “if you look at the purely technical perspective, these tensions [within the SADC EPA group] are hard to understand.”¹⁴

Conclusion

In this article, we have introduced the idea of discourse as a ‘weapon of the weak’ in regional trade negotiations, an issue that has so far been overlooked by scholarly analysis of trade negotiations. We suggest that materially weak states can use prevailing discourses to remind more materially powerful states of their commit-

¹⁴ Personal interview with a trade expert, 13 July 2009, Brussels.

ments and promises; imitating and accentuating dominant discourses becomes a source of influence. We highlighted how the negotiating process in the EPAs has been dominated by recourse to the prevailing discourse of development. This discourse has provided opportunities for African states to repeatedly prompt the EU about their public statements that above all else EPAs should be a ‘tool for development.’ African states have also drawn attention to European commitments to a ‘partnership’ approach to the negotiation of EPAs. The attempt by the EU to use the EPAs to ensure ‘WTO-plus’ commitments in its trade relations with African states, and the repeated threat to remove preferences if EPAs were not signed, allowed Africans to cry foul, strategically employ NGO support outside of the negotiations, and defy the Europeans.

Because of the role discourse has played in the EPA negotiating process, the EU has become trapped within its own normative frame. African negotiators have exploited this European discursive weakness, ‘mimetically challenging’ the EU over the content of their EPA proposals as well as drawing attention to EU negotiating behaviors that were clearly antithetical to the European commitment to a ‘development partnership.’ African states ensured that the European-led development discourse within the EPAs was directly linked to the social identity of the EU as a normative actor in the international system. Furthermore, development debates within the international public sphere, led by development NGOs, reinforced Africa’s rhetorical entrapment of the EU.

There are of course limits to such discursive power, and the difficulties that African states are facing in moving from a strategy of resistance to agenda-setting are reflective of these limits. Such limitations to a more balanced relationship with the EU would be more decisive to the development prospects of African states if the global context had not changed somewhat since the launch of the EPA negotiations in 2002. In the wake of the global financial crisis, which began in 2008, African states have become even more skeptical of the potential developmental impact of EPAs (Khumalo & Mulleta 2010: 210). In addition, the current financial crisis within Europe has raised questions over the EU’s standing within the global order. As Andreasson (2011: 1168) suggests, “renewed attention to Africa is also part of a gradual but steady shift in the centre of gravity of the global economy, away from the core regions of the developed world, eastward and southward.”

Furthermore, while the EU remains a key destination for African exports, it is clear that the increasing role played in Africa’s development by emerging powers – in particular China and, increasingly, India – does offer a serious alternative to the approach to trade and development being promoted by the EU. This issue has been downplayed persistently by European negotiators but the ‘Chinese elephant in the room’ has added to the already tense negotiations.¹⁵ While the attractiveness

¹⁵ Personal interviews with officials at DG Trade, 29 June and 15 July 2009, Brussels.

of the European market keeps African states at the negotiating table, the existence of additional markets and alternative sources of financial aid that can seemingly be more easily gained by collaborating with, for example China, has changed the picture. In this changed context, regional economic relations with Europe remain significant, but the hurdles to achieving a genuine ‘development partnership’ with this market make the new Asian alternatives all the more attractive.

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